



9110-04-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

**[Docket No. USCG-2017-0976]**

**RIN 1625-AA09**

**Drawbridge Operation Regulation; Lake Washington, Seattle, WA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is removing the existing drawbridge operation regulation for the Evergreen Point Floating Bridge (SR-520 Floating Bridge) across Lake Washington, mile 4.3, at Seattle, WA. The drawbridge was replaced with a fixed bridge in 2016, and the operating regulation is no longer applicable or necessary. The SR-520 Floating Bridge was rebuilt, and the center span was built with a fixed span that replaced the draw.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0976. In the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule,

call or e-mail Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206-220-7282, e-mail d13-pf-d13bridges@uscg.mil.

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department Of Homeland Security
FR	<b>Federal Register</b>
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that notice and comment procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) because the Evergreen Point Floating Bridge (SR-520 Floating Bridge), that once required draw operations in 33 CFR 117.1049, was removed from Lake Washington and replaced with a fixed bridge in 2016. Therefore, the regulation is no longer applicable and needs to be removed. It is unnecessary to publish a NPRM because drawbridge regulations are only used for bridges that have an operational span that is intended to be opened for the passage of waterway traffic. The Evergreen Point Floating Bridge identified in 33 CFR 117.1049 no longer exists and has been replaced by a bridge without an operational span.

For the same reasons stated in the preceding paragraph, under 5 U.S.C. 553(d)(3),

the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the Federal Register. The bridge at issue no longer has an operational span and therefore has no need of a drawbridge regulation. The removal of the regulation will not affect mariners currently operating on this waterway. Therefore, a delayed effective date is unnecessary.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The Evergreen Point Floating Bridge (SR-520 Floating Bridge) was removed and replaced with a fixed bridge in 2016. The elimination of this drawbridge necessitates the removal of the drawbridge operation regulation (33 CFR 117.1049) that pertains to the former drawbridge. The purpose of this rule is to remove the section of 33 CFR 117.1049 that refers to the Evergreen Point Floating Bridge at mile 4.3 from the Code of Federal Regulations, because the bridge at that location is no longer has an operational span.

### **IV. Discussion of Final Rule**

The Coast Guard is changing the regulation in 33 CFR 117.1049 by removing restrictions and the regulatory burden related to the draw operations for this bridge that is no longer a drawbridge. The change removes the regulation governing the Evergreen Point Floating Bridge since the bridge has been replaced with a fixed bridge. This final rule will update the Code of Federal Regulations by removing language that governs the operation of the Evergreen Point Floating Bridge, which in fact is no longer a drawbridge. This change does not affect waterway or land traffic.

### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders.

#### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771. See OMB’s Memorandum “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017).

As previously explained, the Evergreen Point Floating Bridge was removed from Lake Washington and replaced with a fixed bridge in 2016 and no longer operates as a drawbridge. The removal of the operating schedule from 33 CFR part 117, subpart B, will have no effect on the movement of waterway or land traffic, but will serve to remove an outdated and obsolete provision from the CFR.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their

fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

For the reasons stated in section IV.A above this final rule would not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism,

if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the

human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2-1, paragraph (32) (e), of the Instruction.

A Record of Environmental Consideration and a Memorandum for the Record are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1.

§ 117.1049 [Removed]

2. Remove § 117.1049.

David G. Throop,  
Rear Admiral, U.S. Coast Guard,  
Commander, Thirteenth Coast Guard District.  
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